IN THE UNITED STATES DISTRICT COURT FOR THE MIDDLE DISTRICT OF ALABAMA NORTHERN DIVISION

UNITED STATES OF AMERICA)
)
v.) CRIM. CASE NO. 2:20-cr-38-ECM
)
CORDARELL UPSHAW)

MEMORANDUM OPINION and ORDER

On January 20, 2021, the Court held a status conference in this case to discuss jury selection and trial which is presently set on the term of court commencing on February 1, 2021. For the reasons set forth below, the Court will continue jury selection and trial pursuant to 18 U.S.C. § 3161(h)(7).

While the trial judge enjoys great discretion when determining whether to grant a continuance, the court is limited by the requirements of the Speedy Trial Act. 18 U.S.C. § 3161; *United States v. Stitzer*, 785 F.2d 1506, 1516 (11th Cir. 1986). The Act provides in part:

"In any case in which a plea of not guilty is entered, the trial of a defendant charged in an information or indictment with the commission of an offense shall commence within seventy days from the filing date (and making public) of the information or indictment, or from the date the defendant has appeared before a judicial officer of the court in which such charge is pending, whichever date last occurs."

18 U.S.C. § 3161(c)(1).

The Act excludes, however, certain delays from the seventy-day period, including delays based on "findings that the ends of justice served by taking such action outweigh the best interest of the public and the defendant in a speedy trial." 18 U.S.C. § 3161(h)(7)(A). In determining whether to grant a continuance under § 3161(h)(7), the court

"shall consider," among other factors, whether denial of a continuance would likely "result

in a miscarriage of justice," or "would deny counsel for the defendant . . . the reasonable

time necessary for effective preparation, taking into account the exercise of due diligence."

§ 3161(h)(7)(B)(i), (iv).

Due to the Coronavirus Disease 2019 (COVID-19) which creates an increased threat

to the health and safety of all trial participants, coupled with the recent increase in COVID-

19 cases in this district, and the recent initiation of COVID-19 vaccinations, the Court

concludes that the ends of justice served by continuing this trial until the April 12, 2021

trial term outweigh the best interest of the public and the Defendant in a speedy trial.

Neither the Defendant nor the Government oppose this continuance. Thus, for good

cause, it is

ORDERED that jury selection and trial in this case are CONTINUED from

February 1, 2021 to the criminal term of court commencing on April 12, 2021 at 10:00 a.m.

in Montgomery, Alabama. All deadlines tied to the trial date are adjusted accordingly.

The United States Magistrate Judge shall conduct a pretrial conference prior to the

April trial term.

Done this 21st day of January, 2021.

/s/Emily C. Marks

EMILY C. MARKS

CHIEF UNITED STATES DISTRICT JUDGE